

House Bill 1073 (AS PASSED HOUSE AND SENATE)

By: Representatives Meadows of the 5th, Bryant of the 160th, Yates of the 73rd, Hanner of the 148th, Holt of the 112th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide for the provision of absentee ballots to uniformed and overseas voters and the use of special write-in ballots; to provide that absentee ballots may be requested by electronic transmission; to provide that the State Election Board shall establish by rule or regulation procedures for the transmission of blank absentee ballots to uniformed and overseas voters; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by revising subsection (b) of Code Section 21-2-219, relating to registration by members of armed forces or merchant marine and permanent overseas citizens, as follows:

"(b) A person who is a legal resident of this state and a citizen of the United States; who is a member of the armed forces of the United States or the merchant marine, is a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member, or is temporarily or permanently residing overseas; and who will be absent from such person's county of residence until after the time for registering for an ensuing primary or election may make proper application for voter registration on the official post card or write-in absentee ballot provided for by the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended."

SECTION 2.

Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section 21-2-381, relating to making of application for absentee ballot, as follows:

"(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, by electronic transmission, or in person in the registrar's or absentee ballot clerk's office, an application for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. ~~Persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may additionally make application for an official ballot by electronic transmission.~~"

(B) In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

(C) The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot, if applicable; and the name and relationship of the person requesting the ballot if other than the elector.

(D) Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector's voter registration record or a temporary out-of-county or out-of-municipality address.

(E) Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true.

(F) If the elector is unable to fill out or sign such elector's own application because of illiteracy or physical disability, the elector shall make such elector's mark, and the person filling in the rest of the application shall sign such person's name below it as a witness.

~~(G) One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second regularly scheduled~~

~~general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen.~~

(H) Any elector meeting criteria of advanced age or disability specified by rule or regulation of the State Election Board or any elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person, a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Except as otherwise provided in this subparagraph, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary."

SECTION 3.

Said chapter is further amended by revising Code Section 21-2-381.1, relating to procedures for voting with special write-in absentee ballots by qualified absentee electors, as follows:

"21-2-381.1.

(a) Notwithstanding any other provisions of this chapter, a qualified absentee elector, as defined in Code Section 21-2-380, ~~may apply not earlier than 180 days before an election for a special write-in absentee ballot. This ballot shall be for presidential electors and United States senator or representative in Congress in general, special, primary, and run-off elections, who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, and who makes timely application for but does not receive an official absentee ballot may vote by completing, signing, and mailing a federal write-in absentee ballot promulgated under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended.~~

(b)(1) ~~The application for a special write-in absentee ballot may be made on the federal post card application form or on a form prescribed by the Secretary of State~~ Any elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, when voting

a federal write-in absentee ballot for a federal general, special, or run-off election, may designate a candidate by writing in the name of the candidate or by writing in a party preference for each office. A written designation of the political party shall be counted as a vote for the candidate of that party.

(2) Except as provided in paragraph (3) of this subsection, an elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may vote in any election for a public office other than for a federal office by using the addendum provided in the federal write-in absentee ballot and writing in the title of the office and the name of the candidate for whom the elector is voting. In a general, special, or run-off election, the elector may alternatively designate a candidate by writing in a party preference for each office, the names of specific candidates for each office, or the name of the person who the elector prefers for each office. A written designation of the political party shall be counted as a vote for the candidate of that party.

(3) If the elector is voting in a primary or primary runoff, the elector shall identify the political party for which the elector has requested a ballot in the appropriate section of the federal write-in absentee ballot. A vote cast by writing in the name of a candidate who is not affiliated with the identified political party ballot is void and shall not be counted.

(c) Except as otherwise provided in this Code section, a federal write-in absentee ballot shall be submitted and processed in the same manner as provided for official absentee ballots. A federal write-in absentee ballot of any elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, shall not be counted:

(1) In the case of a ballot submitted by an overseas elector who is not an absent uniformed services elector, if the ballot is submitted from any location in the United States;

(2) If the application of an elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, for an absentee ballot is received by the appropriate board of registrars after two days prior to a general, special, primary, or run-off election; or

(3) If an official absentee ballot of an elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, is received by the appropriate board of registrars not later than the deadline for receipt of absentee ballots under subparagraph (a)(1)(G) of Code Section 21-2-386.

~~(c)(d) In order to qualify for a special write-in absentee ballot, the voter must state that he or she is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated areas or extremely remote areas of the world. This statement may be made on the federal post card application or on a form prepared by the Secretary of State and supplied and returned with the special write-in absentee ballot~~

The following rules shall apply with respect to federal write-in absentee ballots:

(1) In completing the ballot, an elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may designate a candidate by writing in the name of the candidate or by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party;

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved; and

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of the candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the elector can be ascertained.

~~(d)(e) Upon receipt of said application, the registrars shall issue the special write-in absentee ballot which shall be prescribed and provided by the Secretary of State. Such ballot shall permit the elector to vote by writing in a party preference for each office, the names of specific candidates for each office, or the name of the person whom the voter prefers for each office~~ Any elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, who submits a federal write-in absentee ballot and later receives an official absentee ballot, may submit the official absentee ballot. An elector who is entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, who submits a federal write-in absentee ballot and later receives and submits an official absentee ballot should make every reasonable effort to inform the appropriate board of registrars that the elector has submitted more than one ballot.

SECTION 4.

Said chapter is further amended by revising paragraph (2) of subsection (a) of Code Section 21-2-384, relating to preparation and delivery of absentee ballot supplies, as follows:

"(2) The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants. As additional applicants are determined to be eligible, the board or clerk shall

mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility; provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election. The board of registrars shall, at least 45 days prior to any general primary, or general election other than a municipal general primary or general election, and at least 21 days prior to any municipal general primary or general election, mail or electronically transmit official absentee ballots to all electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended."

SECTION 5.

Said chapter is further amended by revising Code Section 21-2-384, relating to preparation and delivery of absentee ballot supplies, by adding a new subsection to read as follows:

"(e) The State Election Board shall by rule or regulation establish procedures for the transmission of blank absentee ballots by mail and by electronic transmission for all electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, and by which such electors may designate whether the elector prefers the transmission of such ballots by mail or electronically. If no preference is stated, the ballot shall be transmitted by mail. The State Election Board shall by rule or regulation establish procedures to ensure to the extent practicable that the procedures for transmitting such ballots shall protect the security and integrity of such ballots and shall ensure that the privacy of the identity and other personal data of such electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, to whom a blank absentee ballot is transmitted under this Code section is protected throughout the process of such transmission."

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.